

DETAILED ACTION

Claims 1-14 are presented for examination.

Applicant's Amendment filed March 5, 2008 has been received and entered into the present application. Claims 1-14 are pending and are herein examined on the merits.

Applicant's arguments, filed March 5, 2008 have been fully considered. Rejections not reiterated from previous Office Actions are hereby withdrawn. The following rejections are either reiterated or newly applied. They constitute the complete set of rejections presently being applied to the instant application.

Maintained Claim Rejections - 35 USC § 102

The rejection of claims 1-5 and 12-14 under 35 U.S.C. 102(b) as anticipated by Connor et al. (6395701 B1) has been maintained for the reasons stated in the prior Office Action October 5, 2007 and further in view of the following remarks.

Claims 1-5, and 12-14 are directed to a process for preventing and/or smoothing out expression wrinkles of the face.

Connor et al. disclose of perfumes and perfumery ingredients useful in the present compositions and processes comprise chemical ingredients such as aldehydes, ketones, esters, and the like. Also, essences such as rose extract and musk are used.

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Individual perfumery ingredients can comprise from about 0.0001% to about 90% of a finished perfume composition (see col. 75, lines 32-42). Example of an aldehyde used is hydroxycitronellal (see col. 75, line 75), example of a ketone is coumarin (see col. 75, line 62), example of ester is benzyl salicylate (see col. 76, line 4), example of an alcohol is geraniol (see col. 76, line 28) and ethanol as solvent (see col. 76, line 60). The skin care composition includes agents for preventing, retarding, arresting, and/or reversing skin wrinkles such as retinol and retinyl palmitate. Also, includes moisturizers (see col. 77, lines 50-62). See col. 89 for additional examples of fragrances such as bergamot oil, musk, geraniol, hydroxycitronell, benzyl salicylate, and ethanol as solvent.

Consequently, the reference anticipates the claimed invention defined in claims 1-5, and 12-14.

Response to Arguments Under 35 USC § 102

Applicant argues that Connor fails to disclose or suggest a fragancing composition including the particular combination of components recited in claims 1 and 12. Further Applicant argues that the cosmetic composition is applied to facial skin in need of treatment for expression wrinkles or lines and that there is nothing in Connor suggesting that the perfumes disclosed therein could or should be applied to facial skin to achieve such effect.

Applicant does not agree and draws Applicant's attention to the rejection above as indicated in the previous Office Action dated October 5, 2007. Connor not only anticipates all of the components of the fragancing composition it also anticipates its

concentrations. Applicant with emphasis added indicates that Connor does not teach the solvent in the composition. Examiner directs Applicant's attention to col. 76, line 60 where the solvent used is ethanol. Connor teaches a skin composition to be used for preventing, retarding, and reversing skin wrinkles, expression wrinkles are still considered to be skin wrinkles.

Applicant argues that the present inventors discovered that the fragrances compositions can have the effect of relaxing certain striated muscles, which in turn induces relaxation of the muscles of the face. Connor teaches that the skin composition includes agents for arresting. Applicant is also reminded that administration of the same products, for example, essential oils, ketones, aldehydes, and musks would have the same effect on any host induces relaxation of the muscles because products of identical compounds cannot have mutually exclusive properties, therefore this is not a discovery by the inventor's these are exclusive properties of these compounds..

Applicant's amendments and remarks have been carefully considered in their entirety, but fail to be persuasive in establishing error in the propriety of the present rejection.

Maintained Claim Rejections - 35 USC § 103

The rejection of claims 1-14 under 35 U.S.C. 103(a) as being unpatentable over Connor et al. (US Patent No. 6395701 B1), in view of Pinterski et al. (US Patent No. 6780825 B2), and further in view of Toomim et al. (US Patent No. 5505208) has been

maintained for the reasons stated in the prior Office Action October 5/2007 and further in view of the following remarks.

Claims 1-14 are directed to a process for preventing and/or smoothing out expression wrinkles of the face in an aromatherapy system.

Connor et al. disclose of perfumes and perfumery ingredients useful in the present compositions and processes comprise chemical ingredients such as aldehydes, ketones, esters, and the like. Also, essences such as rose extract and musk are used. Individual perfumery ingredients can comprise from about 0.0001% to about 90% of a finished perfume composition (see col. 75, lines 32-42). Example of an aldehyde used is hydroxycitronellal (see col. 75, line 75), example of a ketone is coumarin (see col. 75, line 62), example of ester is benzyl salicylate (see col. 76, line 4), example of an alcohol is geraniol (see col. 76, line 28) and ethanol as solvent (see col. 76, line 60). The skin care composition includes agents for preventing, retarding, arresting, and/or reversing skin wrinkles such as retinol and retinyl palmitate. Also, includes moisturizers (see col. 77, lines 50-62). See col. 89 for additional examples of fragrances such as bergamot oil, musk, geraniol, hydroxycitronell, benzyl salicylate, and ethanol as solvent.

Piterski et al. teach of a mild foaming cleanser composition. The cleanser composition has a moisturizer system, an aromatherapy system and a solvent system. The moisturizer system further includes a milk protein. In addition, the cleanser composition may also include fragrance (see abstract). The moisturizer system is for nourishing the skin and an aromatherapy system for promoting calming effect

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to the user (see col. 1, lines 11-17). Aromatherapy has been used since ancient times to reduce stress, relax, uplift, and restore emotional well-being (see col. 1, lines 42-44). Aromatherapy has been used for centuries as a way to promote physical and mental well being. Essential oils extracted from flowers, herbs, spices, woods, and fibers, when inhaled, are believed to have subtle effects on a person's mind and emotions. In addition, it is believed that when the essential oils penetrate the skin and enter the bloodstream and immune system, they work in a physiological manner to promote healing (col. 5, lines 59-67). Essential oils are mixtures of different organic molecules, such as alcohols, esters, aldehydes, ketones and phenols. It is believed that it is the interaction between each and every component and/or molecule that gives an essential oil its particular character and unique therapeutic properties. Therefore, the use of one or more essential oils in the present lotion composition not only provides a calming effect, it may also provide beneficial healing effects. A variety of essential oils may be used for the present invention. Suitable essential oils for use in the present lotion composition include, for example, Bergamot (*Citrus Aurantium Bergamia*) Oil, Musk Rose (*Rosa Moschata*) Oil, Rose Oil (see col. 6, lines 7-65). The solvent system in the composition the use for example, water and alcohol, The solvent or solvent system is present in the composition in an amount about 75 wt. % to about 98 wt. % based on the total weight of the composition (see col. 7, lines 36-38).

Toomim et al. teach of a method for collecting back muscle dysfunction which comprises collecting electrical muscle activity measurements by applying a plurality of

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electrodes in a pattern across a patient's back or test subject's back, and measuring the electrical activity at each of these electrodes and storing these measurements at the same time. The database of these sets of measurements from the number of individuals is generated so that a normative sample for comparison is formed. A patient's back muscle activity is quantified by collecting electrical muscle activity measurements for the patient and comparing the patient's electrical muscle activity measurements ratios to the sample average ratios of the normative group (see abstract). See Fig. 2 for patient's back muscles being tested including upper and middle trapezius.

It would have been obvious to one of ordinary skill in the art to use the teachings of the above references to create a composition made of fragrances and a process of aromatherapy for muscle relaxation for those of need. It would have been obvious to use the components for an aromatherapy composition on a stressed patient and after relaxation to measure the muscles activity by the teachings of Toomim et al. against a population that has not been treated by the aromatherapy composition.

One would have been motivated to create such a composition because Connor et al. teach all the necessary components of a skin care product that can be used in an aromatherapy process as taught by Pinterski et al. Pinterski et al. teach that aromatherapy promotes calming, relaxation, and reduces stress and the back muscle dysfunction can be measured as taught by Toomim et al. Therefore, one of ordinary skill in the art would have been motivated to use the composition of Connor et al. to develop an anti-wrinkle composition along with Pinterski et al. teaching of an

aromatherapy system and measuring the muscular activity of the trapezius muscle as taught by Toomim et al.

Finally, one would have a reasonable expectation of success given that Conner et al. and Pinterski et al. along with Toomim et al. provide a detailed blueprint for the process of preventing facial wrinkles.

Thus in the absence of evidence to the contrary, the invention of claims 1-14 would have been prima facie obvious as a whole to one of ordinary skill in the art at the time the invention was made.

Response to Arguments Under 35 USC § 103

Applicant's attention regarding Connor's discussion is directed above to the response to arguments under 35 USC § 102.

Applicant indicates that Pinterski and Toomin fail to remedy the deficiencies of Connor. Applicant further notes that the compositions of Pinterski are for treating infants and toddlers. Such treatment does not involve treatment of wrinkles and lines.

Applicant indicates in claim 2 that the cosmetic composition is selected from the group consisting of skincare, cleansing and makeup compositions. Further Applicant claims that the composition is applied to the part of the skin located between the nose and the mouth which is the process of aromatherapy. Applicant's attention is drawn above to the rejection under 35 USC § 103. Pinterski et al. teach of a mild foaming cleanser composition. The cleanser composition has a moisturizer system, an aromatherapy

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system and a solvent system. The moisturizer system further includes a milk protein. In addition, the cleanser composition may also include fragrance (see abstract). The moisturizer system is for nourishing the skin and an aromatherapy system for promoting calming effect to the user (see col. 1, lines 11-17). Aromatherapy has been used since ancient times to reduce stress, relax, uplift, and restore emotional well-being (see col. 1, lines 42-44). As indicated in claim 11 the fragrancing composition is applied to the skin located between the nose and the top lip of a human individual subjected to stress and a reduction in the muscular activity of the trapezius muscle is observed. Pinterski et al. discloses that essential oils are mixtures of different organic molecules, such as alcohols, esters, aldehydes, ketones and phenols. It is believed that it is the interaction between each and every component and/or molecule that gives an essential oil its particular character and unique therapeutic properties. Therefore, the use of one or more essential oils in the present lotion composition not only provides a calming effect, it may also provide beneficial healing effects. To skilled artisan is obvious that certain activities affect certain muscle movements. It is obvious and known from ancient times that through aromatherapy there is muscle relaxation and to a person skilled in the art is obvious to measure the activities of the trapezius shoulder to indicate the muscle relaxation. Any system that is used for relaxation of muscle that muscle and its activities can be measured as is taught by Toomin et al.

Applicant's amendments and remarks have been carefully considered in their entirety, but fail to be persuasive in establishing error in the propriety of the present rejection.

Conclusion

No claims of the present application are allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh Vakili whose telephone number is 571-272-3099. The examiner can normally be reached on 8:30-5:00 Mon.-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Zohreh Vakili

Patent Examiner 1614

June 5, 2008

/Ardin Marschel/

Supervisory Patent Examiner, Art Unit 1614